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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,726	07/29/2003	Judson A. Bradford	BRP / 200	7525
26875	7590	12/15/2005	EXAMINER	
WOOD, HERRON & EVANS, LLP 2700 CAREW TOWER 441 VINE STREET CINCINNATI, OH 45202			LHYMN, EUGENE	
			ART UNIT	PAPER NUMBER
			3727	

DATE MAILED: 12/15/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/629,726

Applicant(s)

BRADFORD, JUDSON A.

Examiner

Eugene Lhymn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 14-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____.

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-13, drawn to product claims, classified in class 220, subclass 528.
 - II. Claims 14-20, drawn to method claims, classified in class 156, subclass unknown.
2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case the process as claimed can be used to make other and materially different product, since the product claims do not positively recite the limitation of securing a first component hook and loop fastener to an inner surface of a container wall.
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. During a telephone conversation with Dwight Poffenberger on 12/5/05, a provisional election was made without traverse to prosecute the invention of the product, claims 1-13. Affirmation of this election must be made by applicant in replying to this Office action. Claims 14-20 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 7 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, it is unclear as to which exterior surface the plurality of loops is located thereon. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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4. Claims 1-3 and 6-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ikelheimer (US 3491909). With respect to claim 1, Ikelheimer discloses the following:

- A partition assembly including partitions arranged in a matrix
- A container having walls extending upwardly from a bottom, defining an interior of a container
- Partitions being of length such that they do not bend when inserted
- Partition assembly is held in the interior of the container by at least one hook and loop fastener (Fig. 3)

With respect to claim 2, Ikelheimer discloses a first component secured to an inner surface of one of the container walls and a second component secured to one of the partitions (Fig. 3).

With respect to claim 3, Ikelheimer discloses one of the components having hooks that engage loops on the other components (Fig. 3).

With respect to claim 6, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Ikelheimer which is capable of being used in the intended manner, i.e., as a flexible extension. There is no structure in Ikelheimer which would prohibit such functional intended use (see MPEP 2111).

With respect to claim 7, to the degree that the claim is understood, Ikelheimer discloses the second component having a plurality of loops on an exterior surface, as shown in Fig. 3.

With respect to claim 8, Ikelheimer discloses the second component being a flexible tab, as shown in Fig. 5, item 12, wherein the member is made of plastic, which is intrinsically flexible (Col. 2, Line 37).

With respect to claim 9, Ikelheimer discloses the partitions being plastic (Col. 2, Line 37).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ikelheimer in view of Davis (US 6189697 B1). With respect to claim 4, Ikelheimer discloses the claimed invention except for the second component being adhesively secured to one of the partitions. Ikelheimer does not positively recite how the hook and loop fastener is connected to the partition, however, Davis teaches a peripheral pocket being attached to a container sidewall via "conventional mean" including using an adhesive (Col. 3, Lines 49-51). Having the fasteners adhered to the partitions provides

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a convenient and readily accessible means for connecting. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to adhere the hook and loop fasteners to partitions of Ikelheimer as taught by Davis so as to provide a convenient and readily accessible means for connecting.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ikelheimer in view of Baum (US 4403638) and Davis (US 6189697 B1). With respect to claim 5, Ikelheimer discloses the claimed invention except for the second component being adhesively secured to opposite side surfaces of the partitions. However, Baum teaches a partitioned container wherein the partitions have hook and loop fasteners connected to opposite sides of the partitions, as shown in Fig. 4. Having the fasteners connected as such provides a secure interface between the partition and fastener. However, Baum teaches the fasteners being sewn onto each partition. Nonetheless, Davis teaches a peripheral pocket being attached to a container sidewall via "conventional mean" including using an adhesive (Col. 3, Lines 49-51). Having the fasteners adhered to the partitions provides a convenient and readily accessible means for connecting. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to adhere the hook and loop fasteners to partitions of Ikelheimer as taught by Baum and Davis so as to provide a secure, convenient, and readily accessible means for connecting.

8. Claims 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bross (US 4595246) in view of Baum (US 4403638). With respect to claim 10, Bross discloses the following:

- A plurality of first slotted partitions
- A plurality of second slotted partitions
- First and second partitions being arranged in a matrix

However, Bross fails to disclose one of the slotted partitions having a flexible tab at the end thereof, wherein the flexible tab comprises a second component fastener.

Nonetheless, Baum teaches a partitioned container wherein each of the partitions has a hook and loop fastener forming a tab attached to the end thereof (Fig. 4). Having a hook and loop configuration as such provides a convenient and reliable means for securing the partitions to each other and to the container. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add hook and loop fasteners to the ends of the partitions of Bross as taught by Baum so as to provide a convenient and reliable means for securing the partitions to each other and to the container.

With respect to claim 11, Bross discloses the partitions being made of plastic (Col. 2, Lines 40-45).

With respect to claim 12, Bross discloses the claimed invention except for one of the slotted partitions having a flexible tab at the end thereof, wherein the flexible tab comprises a second component fastener. Nonetheless, Baum teaches a partitioned container wherein each of the partitions has a hook and loop fastener forming a tab

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attached to the end thereof (Fig. 4). Having a hook and loop configuration as such provides a convenient and reliable means for securing the partitions to each other and to the container. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to add hook and loop fasteners to the ends of the partitions of Bross as taught by Baum so as to provide a convenient and reliable means for securing the partitions to each other and to the container.

With respect to claim 13, Bross discloses the partitions being made of plastic (Col. 2, Lines 40-45).

Conclusion

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mastronardo (US 4842032)

Greenwald (US 6231099 B1)

Adams (US 6640944 B2)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eugene Lhymn whose telephone number is 571-272-8712. The examiner can normally be reached on MTWT 6-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Newhouse can be reached on (571)272-4544. The fax phone

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number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NATHAN J. NEWHOUSE
SUPERVISORY PATENT EXAMINER